

# advocates for justice chartered attorneys

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April 1, 2024

By ECF

Hon. Taryn A. Merkl  
United States Magistrate Judge  
United States District Court  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Sylla, et al. v. Amazon Labor Union et al.  
Civil Case No. 23-05261 (AMD)  
Various Letters Seeking Intervenor Status and Court Update

Dear Judge Merkl:

I write concerning three letter addressed to the Court seeking, so they say, to intervene.

From what I understand, the three individuals, like Ms. Valentine-Nieves, who filed an earlier Motion to Intervene addressed to her August 2023 “firing” by Amazon Labor Union (ALU) President Chris Smalls, were part of a small group of officers who did not chose to leave leadership positions in ALU when many of the Plaintiffs did. They were, shall we say, Chris Smalls loyalists. But during the mid-part of 2023, after this lawsuit was filed, Chris tightened his circle and removed them from office like he did Nieves.

WE were going to address the Valentine-Nieves removal in the amended complaint we never filed, and which we described in a letter which was filed under seal. We didn’t proceed because the Plaintiffs, who are as critical of Smalls as the 4 proposed intervenors, basically settled for what they sought – an election.

Between February 27 and March 2, 2024, tables were set up just outside the doors of the Amazon JFK8 warehouse for a referendum about whether to hold an election. Publicity had been sparse (at the insistence of Chris Smalls) until the Neutral agreed to by the parties, Richard Levy (former General Counsel of Health Care Workers Union Local 1199) got involved, and insisted

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Hon. Taryn A. Merkl

April 1, 2024

Page 2

on flyers and emails beginning on February 21. The table was up at least 12 hours every day, and the last night until 2am, despite sub-freezing weather. Around 350 members voted (10% of the workforce employed that week) and they voted about 60-40% in favor of having an election in June or July.

Plaintiffs, with three days, presented an election plan, with dates for various events, leading up to an election, using the same “Table by the front door” method of voting as in February, from June 11-15, 2024, with a Nominations Meeting on May 11, 2024 at a nearby union hall.

The “Union” (Mr. Smalls and two officers) have dragged their feet responding to our proposal, but Richard has designated May 11 as the Nominations Meeting date, and Plaintiffs have prepared a draft flyer to be distributed over the course of the next month advising members and telling them how to nominate or be nominated, and what the eligibility rules are. The ALU Attorney has threatened to challenge Mr. Levy’s ruling before the Court – she is looking for a delay.

The biggest issue between now and the election is conducting it in a manner which satisfies the Labor Management Reporting and Disclosure Act, which requires 30 days mail notice of an election. Both counsel will be approaching the Court with different efforts to get the list. Union Counsel will be serving a Rule 45 Deposition Subpoena on Amazon demanding production of the list. Plaintiffs will be filing an Order to Show Cause seeking relief under the All-Writs Act seeking to have Amazon turn over its non-supervisory employee address list to a 3<sup>rd</sup> Party Mailhouse, and seeking access to Amazon’s facility for terminated candidates who are challenging their termination (since we last met Amazon has fired Plaintiff Connor Spence, who is running for President). See *U.S. v. International Broth. of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO*, 948 F.2d 98, 104 (2<sup>nd</sup> Cir 1991) (“We agree with [the District Court’s] assessment of the need for limited access to employer premises where no feasible alternative for campaigning by candidates for union office is available. We therefore conclude that the order on appeal was “necessary or appropriate in aid of” the district court’s jurisdiction over the underlying litigation in which the Consent Decree”)

In sum, the election process, thanks to Neutral Monitor Levy, is moving towards an election, which all four proposed intervenors can run in. There should be a wide-open vigorous campaign. Mr. Valentine-Nieves had declared her candidacy for President, and she seems aligned with the other three former officers who have written to the Court.

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Hon. Taryn A. Merkl

April 1, 2024

Page 3

The complaints that all four individuals write about generally involve their critique of Chris Smalls' stewardship of the union. They accuse him of malfeasance, corruption, "vitiating" the ALU Constitution, incompetence, etc. That is not a reason to become a party to a lawsuit which was largely settled via a Consent Order. Mr. Boone seems to want to challenge the Consent Order because it "violates the ALU Constitution." As the Court may recall, there were different opinions between the parties about that issue, and the solution agreed upon was to let the members decide. They voted to move forward and there is no purpose served at this point for Mr. Boone and the others to push their way into an eight-month old lawsuit which was publicized widely, even by the NY Times.

This letter should put all concerns to rest. The next step will be the efforts by the parties to get a mailing list. Perhaps Ms. Mirer may come into court to challenge the Neutral Monitor's ruling about the date for nominations. The four proposed intervenors can run for office, and if they have a righteous cause, they may win.

I have copied Amazon's counsel, so they are aware of what is going on.

Thank you for your consideration.

Respectfully submitted,

/s/ *Arthur Z. Schwartz*

Arthur Z. Schwartz

cc: Jeanne Mirer, Esq. (via ECF)  
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Proposed Intervenors, by ECF and Email